



**Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of Claims Against the Dealer Bond of
Schmidt New London Auto Salvage, Inc.

Case No 98-H-1112

FINAL DECISION

On November 26, 1998, Cadott Auto Recyclers & Sales, Inc., (claimant), filed a claim against the motor vehicle dealer bond of Schmidt London Auto Salvage, Inc., (licensee). The claim is based upon a transaction involving a 1996 Ford Mustang, Vehicle Identification Number 1FALP45X0TF110172, which the claimant purchased from the licensee. The Administrative Law Judge issued a Preliminary Determination on January 28, 1999. No objections to the Preliminary Determination were received. Pursuant to sec Trans 140.26(5)(d), Wis. Adm. Code, the Preliminary Determination is adopted as the final decision of the Department of Transportation.

The Wisconsin Department of Transportation - Dealer Section conducted an investigation of the transaction. The results of the investigation have been summarized as follows:

The claimant purchased a 1996 Ford Mustang from the licensee on October 27, 1997. On November 6, 1997, the claimant sold the vehicle to David Staber (a corporate shareholder of Cadott Auto Recyclers & Sales, Inc.). A Wisconsin title for the vehicle was obtained in David Staber's name. David Staber took the vehicle to a Ford dealer for recall work on March 5, 1998. After some research by Ford it was determined that the vehicle was a former National Highway Traffic Safety Administration (NHTSA) crash test vehicle. The vehicle had been disposed of by the U.S. General Services Administration (GSA) and was sold on a government bill of sale without a title. The bill of sale stated "NOT FOR HIGHWAY USE."

A NHTSA representative contacted Dealer Section Investigator Ron Kraft to inquire why this vehicle was titled and on the road in Wisconsin. The Wisconsin investigation revealed that this vehicle was titled in Ohio to the NHTSA Vehicle Research Test Center. The vehicle was sold by GSA to Century Sales in Arkansas on July 2, 1997. Century Sales apparently used fraudulent documents to obtain an Arkansas title for the vehicle. A dealer reassignment was done on the title from Century Sales to Schmidt New London Auto Salvage, Inc., d/b/a Dons Sports Cars, and another dealer reassignment was done on the Arkansas title to Cadott Auto Recyclers & Sales, Inc., d/b/a Cars, Inc. Cadott Auto Recyclers & Sales, Inc., transferred the vehicle to their retail operation through their salvage operation.

The claimant sold the vehicle to David Staber through its retail motor vehicle dealer license. A Wisconsin title was obtained in the name of David Staber. After the investigation the Wisconsin Department of Transportation - Division of Motor Vehicles canceled the title to this vehicle on May

27, 1998 The claimant reimbursed David Staber the purchase price of the vehicle and the amount he had invested in the vehicle for repairs. The claimant then filed a law suit and bond claim against the licensee seeking reimbursement for the purchase price and repair bills for the vehicle.

The claimant, Cadott Auto Recyclers & Sales, Inc., is a motor vehicle dealer licensed by the Wisconsin Department of Transportation (dealer license No. 1746) under ch. 218, Stats. The procedure for determining claims against dealer bonds is set forth at Chapter Trans 140, Subchapter II, Wis Adm. Code Sec. 140.21, Wis. Adm. Code, defines which categories of claims are allowable and which categories are not allowable Sec. Trans 140.21(2)(a), Wis Adm. Code, provides that a claim made by a claimant licensed under ch. 218, Stats., or required to be so licensed shall be disallowed Pursuant to sec Trans 140 21(2)(a), Wis Adm. Code, the claimant is not an entity which may file a claim against a motor vehicle dealer bond.

CONCLUSIONS OF LAW

1 Cadott Auto Recyclers & Sales, Inc , is a motor vehicle dealer licensed by the Wisconsin Department of Transportation under ch 218, Stats Pursuant to sec Trans 140 21(2)(a), Wis. Adm. Code, the claim filed by Cadott Auto Recyclers & Sales, Inc., must be disallowed

2 The Division of Hearings and Appeals has the authority to issue the following order:

ORDER

The claim filed by Cadott Auto Recyclers & Sales, Inc , against the motor vehicle dealer bond of Schmidt New London Auto Salvage, Inc , is denied

Dated at Madison, Wisconsin on March 2, 1999.

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DIVISION OF HEARINGS AND APPEALS
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By: Mark J. Kaiser
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ADMINISTRATIVE LAW JUDGE